

STATE OF TENNESSEE

Office of the Attorney General



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TELEPHONE 615-741-3491
FACSIMILE 615-741-2009

October 14, 2002

Chairman Sara Kyle
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243

**RE: IN RE: UNITED CITIES GAS COMPANY, a Division of ATMOS ENERGY
CORPORATION INCENTIVE PLAN ACCOUNT (IPA) AUDIT**
Docket No.: 01-00704

Dear Chairman Kyle:

Enclosed is an original and thirteen copies of the Office of the Attorney General's Revised and Supplemental Responses to First Data Request from United Citites Gas Company in the above-referenced matter. We request that this be filed in this docket. Please be advised that all parties of record have been served copies of these documents. If you have any questions, kindly contact me at (615) 532-3382. Thank you very much.

Sincerely,

A handwritten signature in cursive script that reads "Shilina B. Chatterjee".

Shilina B. Chatterjee
Assistant Attorney General

Enclosures

59156

**IN THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE:

) **DOCKET NO. 01-00704**

)
) **UNITED CITIES GAS COMPANY, a**
) **Division of ATMOS ENERGY**
) **CORPORATION INCENTIVE PLAN**
) **ACCOUNT (IPA) AUDIT**
)

**REVISED AND SUPPLEMENTAL RESPONSES TO FIRST DATA
REQUESTS FROM UNITED CITIES GAS COMPANY**

The Tennessee Office of the Attorney General, through the Consumer Advocate & Protection Division ("Attorney General"), hereby revises and supplements its response to United Cities Gas Company's ("UCG") First Data Requests.

These revised or supplemental responses are provided as a result of negotiations held on October 10, 2002 among the parties concerning various discovery disputes and motions to compel that were to be heard before the Tennessee Regulatory Authority by Hearing Officer Richard Collier. The Attorney General believes that it has provided UCG with proper responses to the first data request. However, further clarification concerning the responses was sought by UCG and this serves as an attempt to clarify particular data requests for which UCG seeks clarification.

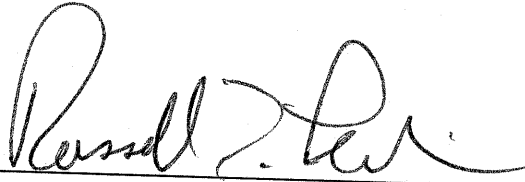
3. Identify the factual basis of and any and all documents which refer and/or relate to the statement made on Page 13 of the Memorandum that the indices already included the effect of transportation prices.

REVISED RESPONSE: After making a reasonable inquiry to provide a meaningful response to this request while not representing that this answer is an exhaustive listing of every conceivable fact that may be responsive to this request, the Attorney General responds as follows: The testimony of UCG's expert witness, Frank Creamer as stated on Page 14 of the Memorandum in Support of Motion for Partial Summary Judgment states that the basket of indices used are widely recognized by UCG in the industry and they include transportation prices. As stated, it is a proxy and the best way to judge a company's performance. Further, pages 21 through 23 of the direct testimony of James R. Harrington on behalf of UCG in TRA docket # 97-1364 dated August 13, 1997 clearly bear out this fact. See Exhibit A attached hereto.

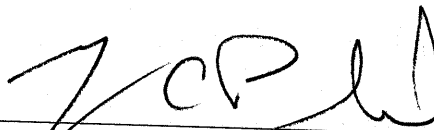
15. Describe in detail how Dr. Brown defines the words "receipt" and "delivery points."

SUPPLEMENTAL RESPONSE: Dr. Brown states as follows: "Within the context of my affidavit, where I used the terms "receipt", "delivery" and "point", my understanding of those terms, and therefore, my definition of those terms is: "receipt" means "received at" and delivered means "sent from" with regard to the transportation of natural gas between two points on a single pipeline or between one point on one pipeline and another point on another pipeline.

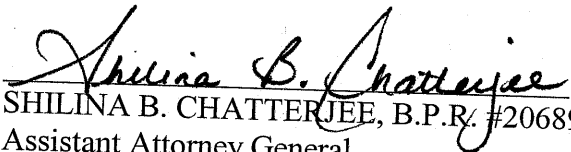
RESPECTFULLY SUBMITTED,



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Consumer Advocate and Protection Division
P.O. Box 20207
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(615) 532-3382

Dated: October 14, 2002

CERTIFICATE OF SERVICE


I hereby certify that a true and correct copy of the foregoing was served via facsimile (with copy by U.S. Mail) and/or hand delivery on October 14, 2002.

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Shilina B. Chatterjee
Assistant Attorney General

A-6.1

REDACTED VERSION

BEFORE THE
TENNESSEE REGULATORY AUTHORITY

In RE: Applicatiion of United Cities Gas)
Company To establish an Experimental)
Performance-Based Ratemaking Mechanism)

Docket No. 97-1364

PREPARED DIRECT TESTIMONY
OF
JAMES R. HARRINGTON

ON BEHALF OF
UNITED CITIES GAS COMPANY

August 13, 1997



1 A. This incentive allows for the utility to manage its owned and/or leased storage and its
2 firm transportation capacity on upstream pipelines. Its objectives are to capture
3 maximum value for the idle storage and transportation capacity and to provide an
4 incentive to market the excess capacity more aggressively. Including both storage and
5 transportation capacity in this mechanism incorporates the two capacity management
6 mechanisms in the experimental period.

7 **Q. What widely regarded indices has United Cities proposed to use on a permanent**
8 **basis?**

9 A. As in its experimental program, United Cities again proposed the use of the *Gas Daily*
10 index for swing purchases and a simple average of NYMEX, *Inside F.E.R.C.'s Gas*
11 *Market Report* and *Natural Gas Intelligence* for spot purchases. In addition, the
12 available published location for the specific point of the purchase is used.

13 **Q. How are the published indices calculated?**

14 A. My understanding of how each of the proposed indices are calculated follows.

15 *Inside F.E.R.C.'s Gas Market Reports* has been reporting in the same format since
16 March 1986. The survey sample comprises more than 350 sources. The sample is
17 composed almost entirely of large and small gas producers, pipeline-affiliated and
18 non-affiliated marketers, distributors and end-users. Prices are reported for actual
19 spot-gas sales agreements, not offers or bids.

20 Intelligence Press, Inc., publishers of *Natural Gas Intelligence* ("NGI") gathers the data
21 used in settling prices via a daily telephone survey of industry representatives. The

1 source base consists of over three hundred participants from all sectors of the natural
2 gas industry and its customers. By obtaining quotes from a large sampling of producers,
3 marketers, intrastate pipelines, industrial end-users, and utilities, NGI increases the
4 likelihood that the prices appearing in the newsletter more closely approach the true
5 population average in an objective manner.

6 The NYMEX gas futures index is a major source for discovering the US gas reference
7 price. Market participation by a broad spectrum of the energy industry helps ensure that
8 all available information on supply and demand is incorporated in the price determination
9 process. Gas futures prices are determined by free competition among traders who
10 announce, by open outcry, their desire to buy or sell a certain number of contracts at a
11 certain price. The forces of many pricing factors ensure that futures prices reflect the
12 true market value of the underlying gas commodity and are transparent to the
13 marketplace at large.

14 Pasha Publications, Inc. publishes of *Gas Daily* surveys scores of responses per day
15 and a few hundred during bid week to produce ranges and indices. *Gas Daily* surveys
16 the complete spectrum of the industry, from wellhead to burnertip, to acquire data. The
17 *Gas Daily* price team talks to major producers and all sizes of independents and
18 marketers from the largest national players to the smallest niche players and local
19 distribution companies, regardless of size, power companies, cogenerators and
20 end-users.

21 **Q. Why were these indices chosen by United Cities?**

1 A. United Cities is served by five pipelines in Tennessee with multiple receipt and delivery
2 points. The indices were chosen to capture the market prices at the various points of
3 purchase by United Cities.

4 **Q. Why is the use of the NYMEX price in the basket of indices appropriate?**

5 A. The NYMEX gas futures price is a major price discovery tool in the US natural gas
6 market. NYMEX futures are measured at the Henry Hub, the main pricing point in the
7 US. NYMEX measures the daily average of what the marketplace was willing to pay
8 today for gas supply delivered at a point in the future. It compliments to the *Inside*
9 *F.E.R.C.'s Gas Market Reports* and *Natural Gas Intelligence* indices which measure
10 what the marketplace paid for actual purchases on specific delivery days.

11 **Q. How is United Cities able to purchase gas at below the prices measured by these**
12 **market indices?**

13 A. United Cities purchases its supply under many arrangements including long term core
14 supply, short term supply, peaking supply, storage supply, etc. The gas supply
15 department staff at United Cities is highly skilled in purchasing the supply at the most
16 opportune time, when possible. The company has also used the experimental PBR
17 program as leverage in making innovative supply deals, benefiting the end-user.

18 **Q. What evidence is there that the index price is an accurate measure of the market**
19 **price(s)?**

20 A. From my perspective the most important evidence is the fact that these indices,
21 individually and collectively, are consistently used by producers, marketers, industrial
22 consumers and others as the key price determinant in arms length commercial contracts.

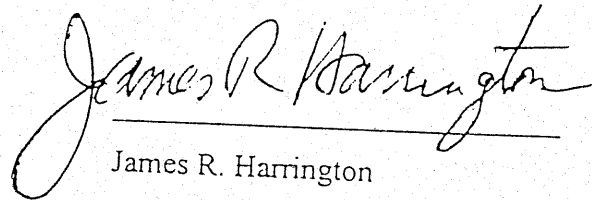
State of Tennessee

County of Williamson

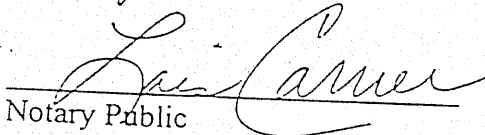
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SSG.

James R. Harrington, being first duly sworn, deposes and says that he is James R. Harrington referred to in the document entitled "Prepared Direct Testimony of James R. Harrington" in Docket No. 97-1364 before the Tennessee Regulatory Authority of the state of Tennessee, and that the statements therein were prepared by him or under his direction and are true and correct to the best of his information, knowledge and belief.


James R. Harrington

Sworn to and subscribed
before me this 12th day
of August, 1997.


Notary Public

My appointment expires:

July 24, 1999